

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN LISCHEFSKI,

Plaintiff,

No. CIV S-05-0271 FCD JFM P

vs.

LT. SWEIGERT, et al.,

Defendants.

ORDER AND

FINDINGS & RECOMMENDATIONS

By order filed March 17, 2005, plaintiff's complaint was dismissed and thirty days leave to file an amended complaint was granted. Plaintiff sought reconsideration of that order by the district court. On June 16, 2005, the order was affirmed and plaintiff was given one additional thirty day period in which to file an amended complaint. The thirty day period has now expired, and plaintiff has not filed an amended complaint or otherwise responded to the court's order. Accordingly, the court will recommend that the action be dismissed without prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

On July 18, 2005 plaintiff filed a letter addressed to the Clerk of the Court, seeking relief from the payment requirements of this court's March 17, 2005 order. Plaintiff also seeks reimbursement for \$150.00 worth of property allegedly lost as a result of the partial payment requirements imposed by that order. The in forma pauperis statute requires the

1 payments required by the court's order. See 28 U.S.C. § 1915(b). Plaintiff's request will be
2 denied.

3 In accordance with the above, IT IS HEREBY ORDERED that plaintiff's July 18,
4 2005 request for relief from the partial payment requirements of this court's March 17, 2005
5 order and for other relief is denied; and

6 IT IS HEREBY RECOMMENDED that this action be dismissed without
7 prejudice. See Local Rule 11-110; Fed. R. Civ. P. 41(b).

8 These findings and recommendations are submitted to the United States District
9 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
10 days after being served with these findings and recommendations, plaintiff may file written
11 objections with the court. The document should be captioned "Objections to Magistrate Judge's
12 Findings and Recommendations." Plaintiff is advised that failure to file objections within the
13 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
14 F.2d 1153 (9th Cir. 1991).

15 DATED: July 27, 2005.

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18 UNITED STATES MAGISTRATE JUDGE

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